



PUBLIC NOTICE

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NOTICE TO PARTICIPANTS IN THE DIGITAL TELEVISION TRANSITION SURVEY

Re: Release of DTV Survey Data to General Accounting Office

The U.S. General Accounting Office (GAO) is conducting a review of the Corporation for Public Broadcasting. In connection with this ongoing project, GAO has requested access to certain information that the Federal Communications Commission collected through a recent survey (May 2003) related to the transition to digital television (DTV). Specifically, GAO seeks access to survey responses submitted to the Commission by noncommercial educational television licensees (NCEs).

GAO's request for the survey data is made pursuant to 31 U.S.C. § 716, under which federal agencies must provide GAO with access to records held by such agencies. GAO notes in its request that it is required by that section to maintain the same level of confidentiality for records provided as is required of the head of the agency from which they are obtained, and that GAO is precluded by 18 U.S.C. § 1905 from disclosing confidential business information. Although the statutory proscription is not applicable to disclosures to Congress, GAO explains that it is GAO's policy to respect business confidential information and to protect the competitive positions of individual companies in a manner consistent with its reporting responsibilities. GAO also indicates that, as a general matter, it excludes proprietary and confidential business information from its congressional reports. If transmittal of that information becomes necessary, GAO states that it will transmit any such information separately and alert the recipient in Congress to the sensitivity of the information and advise that release of it may be prohibited by 18 U.S.C. § 1905. Finally, GAO states that it does not disclose records in its files to the public that originate in another agency and that it will refer any such requests to the originating agency.

Commission regulations provide that proprietary and commercially sensitive information will be withheld from public disclosure, subject to the public's right to seek disclosure under the Freedom of Information Act, 5 U.S.C. § 552. 47 C.F.R. § 0.457(d), 0.459(d). Consistent with our regulations and the broadcast television stations' expectations that information submitted to the Commission with a request for confidential treatment not be made publicly available, we have requested that the GAO not disclose confidential information contained in the DTV survey responses.

Our regulations permit disclosure of records submitted to the Commission in confidence to the Comptroller General (i.e. GAO) without prior notification and that parties shall be notified of the

disclosure of those records to GAO. 47 C.F.R. § 0.442(d)(3). Accordingly, this notice is being provided to broadcast television stations who have submitted data in response to the DTV survey. If you have any questions, please contact Michael Perko or David Savolaine in the Media Bureau at 202-418-7200.